UNITED NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/SR.219
4 May 1995

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Fourteenth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 219th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 1 May 1995, at 3 p.m.

Chairman: Mr. DIPANDA MOUELLE

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Jordan (continued)

* The summary record of the closed part of the meeting appears as document CAT/C/SR.219/Add.1.

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GE.95-12589 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 5) (continued)

Initial report of Jordan (continued) (CAT/C/16/Add.5)

1. At the invitation of the Chairman, Mr. Rifai and Mr. Khasawneh (Jordan) took seats at the Committee table.

2. Mr. RIFAI (Jordan) said, in reply to the question asked by Mr. El Ibrashi at the previous meeting concerning the primacy of the Constitution over the Convention that no legislation in his country was contrary to the provisions of the Convention because Jordanian legislation prohibited acts of violence against an individual in order to obtain information or a confession. No confession was accepted if the prosecutor could not prove that the information had been obtained voluntarily from the accused without any pressure or obligation.

3. The international conventions to which Jordan was a party had the force of law and took precedence over all national laws, with the exception of the Constitution. Decision No. 69 of 1978 stipulated that where there was a conflict between a treaty and domestic legislation, the provisions of the treaty were to be applied. It should be borne in mind that all Jordanian legislation derived from the Constitution, of which it was a natural extension. Consequently, since the international conventions took precedence over national legislation, they also took precedence over the relevant provisions of the Constitution. Accession to international conventions was preceded by scrutiny to ensure that they did not conflict with the provisions of the Constitution.

4. The reason why article 208 of the Constitution did not directly refer to officials who committed an act of torture was that it was intended to cover all persons who committed such an offence, whether they were officials or ordinary individuals.

5. Where torture led to physical or mental injury, Jordanian law provided for more severe penalties. For example, in cases where the victim of torture had been seriously injured, the minimum penalty was six months' imprisonment and the maximum penalty three years. If the results of torture were even more serious, the Penal Code left open the possibility of more severe penalties.

6. With regard to article 2 of the Convention, he said that Jordan had judicial and administrative legislation to prevent acts of torture in any area under its jurisdiction. Under that legislation, even orders given by high-ranking officials could not absolve from prosecution someone who had committed such acts of torture. Jordanian newspapers periodically reported on national legislation, including legislation on human rights, with a view to ensuring that citizens were familiar with the contents of such legislation.

7. With regard to article 3 of the Convention, his Government took the necessary steps to ensure its legislation did not lead to the expulsion of any

person where there were serious grounds for believing that that person might be subjected to torture if he was deported. In that case, the person was allowed to request political asylum.

8. His Government intended to accede to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.

9. His delegation had recently submitted reports to the Committee on the Rights of the Child and the Commission on Human Rights.

10. With respect to the State Security Court, its status had been amended in 1993, when the Prime Minister had been given authority to appoint its members.

11. The members of the secret services provided information to the Department of Public Prosecutions and to the prosecutor of the State Security Court, who carried out inquiries. As far as the role of lawyers was concerned, they were authorized, during an investigation, to advise defendants on their legal interests. In most cases lawyers made an effective contribution to the investigation.

12. An offence was considered to have been committed within the Kingdom if any of the elements constituting the offence or any of the acts that could not be dissociated from the offence or any act of complicity occurred in the territory of the Kingdom. The territory of the Kingdom included the atmospheric layer covering it, its territorial waters to a distance of five kilometres from the coast, the air space above the territorial waters, and Jordanian ships and hovercraft.

13. In reply to the question whether future Jordanian Governments would be able to fulfil obligations undertaken by previous Governments in connection with international human rights instruments, he said that any Jordanian Government was bound to comply with all the obligations assumed by previous Governments in the human rights field. If a defendant or a prisoner had been subjected to ill-treatment, he had the right to submit to the prison governor a verbal or written complaint for transmission to the Department of Public Prosecutions. The governor was obliged to accept and transmit it immediately to that Department, which must carry out an inquiry. If a person who had committed an act of torture was a public official, the law allowed the plaintiff to sue that person in addition to the governmental institution for which he worked.

14. Religious courts had jurisdiction in personal matters, including marriage, inheritance, guardianship and pensions. They had no competence in criminal cases.

15. In reply to Mr. Sorensen's question on corporal punishment, he said that such punishment was no longer resorted to in Jordanian prisons. Old laws under which such punishment had been possible had been abolished.

16. Concerning the role of doctors, article 6 of Act No. 23 of 1953 provided that, in prisons, the functions of a doctor could be performed by the prison doctor or other suitably qualified doctor. Article 7, paragraph 1, of the

same Act provided that the doctor concerned was required to care for prisoners in general and to report to the prison governor on their treatment. The doctor visited prisoners every day if so requested. There was a clinic in the central prison building; in serious cases prisoners were transferred to hospital, where they were treated on the same basis as other patients; treatment was free.

17. A question had been asked about military courts. Such courts had been abolished and martial law terminated.

18. Another question had related to conditions for prisoners in detention centres. In Jordan the purpose of detention of imprisonment was not vengeance but rehabilitation by means of religious and philosophical instruction and training for a trade or profession. Efforts were made to make prisoners aware of the consequences of their crimes and the folly of recidivism. Treatment was in full accord with international laws and conventions; facilities provided included recreation, prayer and workshops, with a view to helping prisoners reintegrate into society.

19. The Penal Code of 1953 laid down standards for the treatment of prisoners. Recently the use of the term "retraining centre" had replaced the more pejorative word "prison" in order to demonstrate the State's concern to ensure a positive future for prisoners.

20. A question had been asked about measures relating to detention. In Jordan, pursuant to article 103 of the Code of Criminal Procedure, no one could be detained without a warrant issued by the public prosecutor after an offence had been observed by witnesses. The police could detain the individual, gather evidence and bring him to trial. Force was not used unless the suspect resisted arrest. The degree of force used must be proportionate to the need.

21. A further question had concerned the general legal framework which guaranteed human rights in Jordan. Jordan was a democratic State under the rule of law based on the principles of justice and equality of opportunity. The foundation of State power was the Constitution and consequent laws, regulations, rules and administrative provisions. Jordan was among those States which were the most devoted to the international system of human rights. National legislation protected human rights and freedoms. Legal provisions barring inhuman or degrading treatment were included in the Constitution. Article 6, paragraph 1, provided that Jordanians were equal before the law in respect of rights and duties without discrimination as to race, language or religion. Article 7 guaranteed freedom of religion, while article 8 stipulated that an individual could be detained only in accordance with the law. Under article 9, paragraph 1, nobody could be expelled from the country without due cause. Article 15, paragraph 1, guaranteed freedom of opinion provided that the exercise of such freedom did not exceed the framework of the law. Article 21 stipulated that political refugees could not be extradited on the grounds of their beliefs or opinions.

22. Article 7 of the Code of Criminal Procedure provided that the responsible officials of the Ministry of Justice must investigate crimes, arrest perpetrators and bring them before the competent court. Such officials

included the public prosecutor, judges, regional authorities, the Director of Public Security, the police and authorized civil servants. The system was supervised by the Director of Public Prosecutions.

23. The question of arbitrary arrest was dealt with in a number of legal provisions, including article 8 of the Code of Criminal Procedure, which stipulated that a competent official must give an immediate hearing to a detainee and, if not satisfied, must, within 48 hours, transfer the suspect to the authority of the public prosecutor. The latter must in turn interrogate him within 24 hours and make a decision as to whether to arrest or release him. Keeping a person in detention beyond the 24-hour limit for interrogation or transfer to the public prosecutor was considered to be an arbitrary act, and the official responsible was liable to prosecution under article 46 of the Code of Criminal Procedure. An exception to that provision was the case of an individual seen by a witness in flagrante delicto. There were competent bodies to deal with abuse or excess of authority. For security personnel there was a police court, provided for in article 35 and amendments thereto. Penalties were proportionate to the degree of abuse. The Judicial Council monitored abuse of authority by judges and prosecutors.

24. Ignorance of the law on the part of the police leading to possible arbitrary detention had been dealt with through the creation of the police academy for the training of police officers and by increasing their knowledge and experience. There was also a judicial training institute for candidates for the magistrature.

25. Martial law, which had been established under an Act of 1935, had been abolished; that Act had been replaced by Act No. 13 of 1992, which had been designed to meet new exigencies and emphasized respect for human rights.

26. Articles 104 to 108 of the Code of Criminal Procedure guaranteed human dignity in prisons. Under article 107, a detainee was permitted to address a complaint, in writing or orally, to the prison governor, requesting a hearing before the public prosecutor who, in turn, was required to accept and examine the complaint. Article 78 stipulated penalties for unlawful detention by public officials; such penalties comprised imprisonment for terms of between three months and one year.

27. No legal instrument defined torture. In general, however, any infringement of the physical or moral integrity of the individual as a consequence of violent treatment would be regarded as torture and penalties were laid down in legislation. The penalties included imprisonment for between three months and three years for certain acts, including the extortion of information by force. If such acts resulted in illness or injury, the penalties were more severe.

28. Mr. BURNS thanked the delegation of Jordan for its very comprehensive replies. He would welcome clarification on two points. The question he was particularly interested in related to incommunicado detention for extended periods on the premises of the General Intelligence Department. He wished to know if there was any system of review which could be initiated by a detainee held in that Department. Did Jordan have a writ equivalent to habeas corpus

or was the prosecutor alone competent to act on complaints by the detainee? In other words, could the detainee go directly to a court or was he restricted to administrative action through the prosecutor?

29. His second question concerned the legal provisions relating to compensation. Was he correct in understanding that Jordanian legislation provided for a civil action by a victim of torture against the torturer, and that if the torturer was a public official, the State organ would be joined as a party to that civil suit and would be liable if the official was found to be liable?

30. Mr. RIFAI (Jordan) said in reply to the question concerning the prosecutor that anyone who was detained for a longer period than had previously been provided for, or where there was suspicion of ill-treatment, could apply to the prosecutor's office if he considered his detention to be unlawful.

31. With respect to compensation, he said that if an employee was sentenced, a civil action could be brought against the company employing him for moral, material or personal compensation.

32. The CHAIRMAN, on behalf of the members of the Committee, thanked the delegation of Jordan for its answers to the questions raised.

The public meeting was suspended at 4.30 p.m. and resumed at 5.35 p.m.

33. Mr. EL IBRASHI (Country Rapporteur) said that the information provided by the Jordanian delegation had afforded the Committee a greater understanding of the genuine efforts made by Jordan to abide by the Convention and to adopt measures to implement its provisions. He read out the Committee's conclusions, adopted in closed meeting, on the initial report of Jordan:

"The Committee against Torture considered the initial report of Jordan at its meetings on 1 May 1995 and adopted the following conclusions and recommendations:

A. Introduction

The Committee thanks the Government of Jordan for its initial report and core document, which were due in 1992, and for the comprehensive explanations presented by the Jordanian delegation. It notes that the report is not in full conformity with the norms set down by the Committee. It also notes that the report and the core document did not contain sufficient information on the effective implementation of the provisions of the Convention. However, the presence of a high-level delegation which provided additional information enabled the Committee to obtain a better understanding of the situation in Jordan and of the application of the Convention on its territory.

B. Positive aspects

1. The Committee welcomes the positive steps undertaken by the Government of Jordan towards the application of the Convention,

especially the lifting of the state of emergency and the abolition of martial law in April 1992, the release of political prisoners, the institution of the right to appeal fully against awards and decisions of the State Security Court to the Supreme Court on questions of both fact and law.

2. The Committee also notes with satisfaction the new Political Parties Act of October 1992, the new law on press and publication, the ratification by Jordan of the Convention on the Rights of the Child in 1991, the establishment of branches in Jordan of the Arab Organization for Human Rights and of Amnesty International, and the creation of a commission for human rights in Jordan. These illustrate the positive steps and trends towards the promotion and protection of human rights in Jordan in general and towards the implementation of the Convention in particular.

C. Subjects of concern

1. The Committee notes that the Jordanian Constitution does not contain specific provisions as to the relationship between international conventions and domestic law. Accordingly, there is a need to incorporate the Convention into the legal system of Jordan to ensure its correct and prompt application.

2. The Committee is concerned that the definition of the act of torture as specified in article 1 of the Convention is not incorporated into Jordanian legislation. Jordanian criminal law does not currently cover all the cases of torture and ill-treatment included in the Convention.

3. The Committee is deeply concerned that a number of allegations of torture have been made since Jordan acceded to the Convention. Such allegations are rarely subjected to independent, impartial investigations. During 1993 and 1994, political detainees were sentenced to death or imprisonment in trials before the State Security Court on the basis of confessions allegedly extracted after torture.

4. The Committee regrets that the headquarters of the General Intelligence Department has been recognized as an official prison and that officers of the armed forces are granted the capacity of public prosecutors. They have the capacity to detain suspects incommunicado, whether civilian or military, until the end of their interrogations. This may last up to six months, during which they are deprived of access to judges, lawyers and doctors.

5. The Committee expresses concern about the continued application of the death penalty and of corporal punishment, which could in itself constitute a violation of the terms of the Convention.

6. The Committee is also concerned that there are allegations that individuals have been expelled from Jordan to countries where there are substantial grounds for believing that they could be subjected to torture.

7. The Committee notes that there does not seem to be any comprehensive programme of education for members of the police and security forces dealing with Jordan's obligations under the Convention. Nor does any specific educational programme for medical personnel appear to be in place, which is of special concern given Jordan's location and the fact that so many refugees from other countries are located there.

D. Recommendations

1. The Committee against Torture recommends that the State party should review its position concerning articles 21 and 22 of the Convention.

2. The Committee expects the State party to undertake the necessary legal measures to ensure the incorporation of the Convention into its national legislation, in order to facilitate its prompt and effective application.

3. The Committee urges the State party to consider making torture a specific criminal offence. In addition, it suggests that the State party should further strengthen measures: to protect the rights of detainees, especially the right to have access to judges, lawyers and doctors of their choice; to investigate promptly allegations of torture and ill-treatment and to ensure that appropriate penalties are applied whenever such offences are committed; to prevent the commission of such acts through efforts to ensure the stricter observance of regulations relating to the treatment of detainees and offenders; and to reduce the length of preventive detention, taking into account the principle of the presumption of innocence as well as the complexity of the investigation.

4. The Committee expects the Jordanian authorities to consider abolishing exceptional courts, such as the State Security Court, and to allow the ordinary Judiciary to recover full criminal jurisdiction in that country.

5. The Committee expects the Jordanian authorities to separate the detention and interrogation functions; the supervision of any detention centre should be effectively carried out by officials other than those of the detention centres.

6. The Committee expects the Jordanian authorities to review their policy relating to corporal punishment.

7. The Jordanian authorities should implement procedures effectively to ensure that no one is expelled to a country where there are substantial grounds for believing that he would be in danger of being subjected to torture in contravention of article 3 of the Convention.

8. The Committee expects the Jordanian authorities urgently to initiate educational programmes directed at all law enforcement and medical personnel, focusing on the obligations laid down in the

Convention and on how evidence of torture may be recognized. In the case of medical personnel, such educational programmes should extend to the methods of rehabilitation of the victims of torture.

9. The Committee stresses that further measures should be taken to ensure that the provisions of the Convention are made more widely known to the public.

10. The Committee recommends that the Jordanian authorities should ensure that the report submitted by the State party and the comments of the Committee should be disseminated as widely as possible in order to encourage the involvement of all sectors concerned in the improvement of human rights in Jordan.

11. The Committee would appreciate receiving in the next report information on those matters, as well as answers to the questions raised by the Committee."

34. Mr. KHASAWNEH (Jordan) assured the Committee that the recommendations would be transmitted to the proper Jordanian authorities and thanked the Committee for allowing the Jordanian delegation to appear before it.

35. The CHAIRMAN thanked the delegation of Jordan for its report and for the answers it had given to questions raised by Committee members; the Committee would look forward to receiving Jordan's next report.

The meeting rose at 6.05 p.m.